

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

FLINT RIVERKEEPER, INC., et al.,

Plaintiffs,

v.

SOUTHERN MILLS, INC., d/b/a
TENCATE PROTECTIVE FABRICS,

Defendant.

CIVIL ACTION NO. 5:16-CV-00435

FEBRUARY 16, 2018 JOINT STATUS REPORT

Pursuant to this Court's October 12, 2017 Order Granting Joint Motion to Stay Case, Plaintiffs Flint Riverkeeper, Inc., Jere M. Cox, Shelby Cox Moore, Granville C. Moore, and Sean P. Draime (collectively the "Plaintiffs") and Defendant Southern Mills, Inc. d/b/a TenCate Protective Fabrics, ("TenCate") jointly submit this status report regarding the Parties' good faith efforts to pursue a comprehensive resolution of this dispute. The Parties provide the following Joint Status Report:

1. On January 18, 2018, the Parties exchanged their respective appraisal reports concerning the individual Plaintiffs' properties.
2. As previously reported, on January 2, 2018, TenCate provided Plaintiffs with a report regarding TenCate's association with per-fluorinated textile finishing compounds. On January 4, 2018, Plaintiffs provided TenCate with questions on the report from their textile dyeing and finishing expert Dr. Richard Blackburn. TenCate provided answers to Plaintiffs' questions on January 23, 2018.

3. As previously reported, on January 12, 2018, Plaintiffs' wastewater expert, Randy Grachek, and Plaintiffs' LAS expert, Phil Freshley, sent TenCate's wastewater expert, Monique Latalladi, and TenCate's LAS expert, David Huff, a technical memorandum. This memorandum contained Freshley and Grachek's opinions on the assimilative/treatment capacity of the spray fields, the data collected since August, and proposed improvements to TenCate's wastewater management system, including solids removal via an inclined-plate clarifier and sludge management. On January 31, 2018, Huff and Latalladi issued a joint technical memorandum containing Latalladi and Huff's opinions on the status of the spray fields and proposing an alternative pretreatment improvement option of a combined vertical and horizontal constructed wetland system.

4. On February 1, 2018, counsel for Plaintiffs and TenCate met at Southern Environmental Law Center's offices. Grachek, Freshley, Latalladi, Huff, and Larry Neal (TenCate wastewater expert) also attended the meeting. The Flint Riverkeeper, Gordon Rodgers, attended the meeting by phone. The Parties discussed their respective pretreatment improvement options and raised concerns and asked questions regarding each proposed alternative. The Parties agreed to conduct treatability testing to determine whether the constructed wetland system proposed by TenCate is a viable pretreatment improvement option. The Parties and experts agreed that the next step was for Latalladi to develop a treatability study plan for the constructed wetlands solution. Grachek and Latalladi would then discuss the treatability study plan and come to an agreement on the scope of the study. The Parties agreed to develop a plan for the treatability study, collect samples, and start the laboratory tests for the treatability study over the next 60 days. Additionally, the Parties agreed to begin discussions regarding, and attempt to reach an agreement in principle

to resolve, Plaintiffs' state law and monetary claims and reach an agreement on Plaintiffs' attorneys' fees and expenses by April 1, 2018.

5. On February 5, 2018, Grachek provided Latalladi a "Wastewater Treatability Testing" memorandum with Plaintiffs' recommendations for the treatability study. On February 9, 2018, Grachek and Latalladi and Rick Marotte (TenCate's wastewater expert) conferred regarding the scope of the treatability study for a constructed wetlands technical solution. Grachek and Latalladi discussed proposed testing methodologies for chemical oxygen demand ("COD") to use during and constituents to include in the treatability study.

6. On February 15, 2018, TenCate provided a wastewater treatability study plan regarding treatability testing for the constructed wetlands technical solution to Grachek and Plaintiffs for their review. The Parties conferred via telephone conference call on February 16, 2018 to discuss Plaintiffs' concerns with the proposed treatability study plan and next steps. At this juncture, the Parties have different views on the progress of the technical solution. Plaintiffs are concerned with the progress being made on the technical solution, and TenCate believes the Parties are making good progress on reaching a resolution on the technical solution. The Parties acknowledged these different views during the conference call. Nevertheless, the Parties agreed in good faith to continue these conversations over the next week with the goal of reaching agreement on the treatability study plan and overall next steps.

7. TenCate agreed to send a revised treatability study plan to Plaintiffs and Grachek early in the week of February 19, 2018. Grachek will review the treatability study plan and make additional recommendations and propose revisions to the study plan for TenCate and Latalladi to review with the goal of reaching agreement. Assuming an agreement is reached, Latalladi will

collect water samples at the TenCate facility, with Grachek observing, and begin laboratory tests by the end of February 2018.

8. Currently, TenCate is installing a gypsum injection system to improve the quality, i.e., infiltration/wastewater assimilative capacity, of the spray fields. TenCate anticipates completing the gypsum injection system in late February.

9. In late December, the Parties agreed on a method for evaluating the influent and effluent wastewater samples collected by both parties during the first week of December for “dye waste” constituents. Both Parties still are awaiting their “dye waste” constituent sampling results. The Parties expect to receive these results in the next week.

10. As previously reported, during the Parties’ January 3, 2018 meeting, Plaintiffs agreed to provide TenCate with an updated estimate of their attorneys’ fees, expert expenses, and costs to aid in future settlement negotiations. On February 13, 2018, Plaintiffs provided TenCate a detailed joint settlement offer to resolve the Plaintiffs’ state law claims, attorneys’ fees, expert expenses, costs, and other outstanding issues. The settlement offer included updated attorneys’ fees, broken down by attorney, hours, and rates, as well as updated expenses. TenCate has concerns with regard to the proposed settlement offer but has agreed to continue, in good faith, a discussion of the items identified in the offer.

11. The Parties anticipate addressing the following tasks before the next Joint Status report: the parties will reach an agreement on the treatability study plan, collect water samples at the TenCate facility, and begin the laboratory tests. The Parties hope to receive the results from the dye waste sampling. When these results are received, the Parties will exchange, review and analyze this data. The next meeting is planned for February 27, 2018 at the offices of Troutman Sanders, where the parties plan to confer regarding the proposed treatability study, the results of

each Party's appraisals, individual Plaintiffs' monetary claims, and negotiations concerning Plaintiffs' joint settlement offer dated February 13, 2018.

WHEREFORE the Parties jointly submit this status report as required by the Court's October 12, 2017 Order and note that these disclosures are in the nature of compromise communications and remain inadmissible by any party for any purpose other than as directed by the Court.

/s/ Justin T. Wong

Justin Wong
Southern Mills, Inc. d/b/a TenCate
Protective Fabrics

/s/ Donald D.J. Stack

Donald D. J. Stack
Flint Riverkeeper, Inc., Jere Michael
Cox, Shelby Cox Moore, Granville Cliff
Moore, and Sean P. Draime

/s/ R. Hutton Brown

R. Hutton Brown
Flint Riverkeeper, Inc.

Dated: February 16, 2018

Respectfully submitted,

TROUTMAN SANDERS LLP

/s/ Justin T. Wong

William M. Droze (Ga. Bar No. 231039)
Gregory W. Blount (Ga. Bar No. 064375)
Justin T. Wong (Ga. Bar No. 969504)

600 Peachtree Street, NE, Suite 5200
Atlanta, Georgia 30308-2216
Phone: (404) 885-3000
Facsimile: (404) 885-3900

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 16, 2018, the counsel indicated below were served by filing through the Court's CM/ECF electronic filing system:

R. Hutton Brown
April Lipscomb
SOUTHERN ENVIRONMENTAL LAW CENTER
hbrown@selcga.org
alipscomb@selcga.org
Counsel for Plaintiff Flint Riverkeeper, Inc.

Donald D.J. Stack
Tyler J. Sniff
STACK & ASSOCIATES, PC
dstack@stack-environlaw.com
tsniff@stack-envirolaw.com
Counsel for Plaintiffs Flint Riverkeeper, Inc., Jere Michael Cox,
Selby Cox Moore, Granville Cliff Moore, and Sean P. Draime

/s/ Justin T. Wong
Justin T. Wong
Georgia Bar No. 969504